

Fricker & Mellen & Associates
Timothy J. Fricker, Esq. 183309
James G. Mellen, Esq. 122035
Tribune Tower
409 13th Street, 17th Floor
Oakland, CA 94612
Tel: (510) 663-8484
Fax: (510) 663-0639

Attorneys for Plaintiff
Mikael Tjuatja

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIKAEL TJUATJA,

Plaintiff,

v.

CHI MANAGEMENT GROUP, L.P. SHORT
AND LONG TERM DISABILITY PLAN,

Defendant.

Case No.:

COMPLAINT

I. JURISDICTION

1. This is a suit to enforce plaintiff's rights to declaratory, injunctive and monetary relief brought pursuant to the Employee Retirement Income Security Act of 1974 (ERISA), 29 USC 1001, *et seq.*

II. PARTIES

2. Plaintiff MIKAEL TJUATJA was at all times relevant hereto an employee of CHI MANAGEMENT GROUP, L.P., (CROSSMARK) (hereinafter referred to as CHI), in the City of Pleasanton, California. As such, plaintiff was eligible to be, and was in fact, a participant in the CHI MANAGEMENT GROUP, L.P. SHORT AND LONG TERM DISABILITY PLAN

1 (hereafter referred to as PLAN), pursuant to ERISA.

2 3. CHI MANAGEMENT GROUP, L.P. is the Administrator of the PLAN. UNUM
3 America is the Administrator of claims.

4 4. The PLAN is an employee welfare benefit plan pursuant to ERISA section 502, 29
5 USC 1002.

6 **III. FACTS**

7 5. Plaintiff was employed by the employer and was a participant in good standing in the
8 PLAN until February 28, 2007.

9 6. Plaintiff became disabled on or about February 28, 2007. Shortly thereafter, plaintiff
10 made a claim for benefits. Plaintiff suffers from severe Interstitial Cystitis. His disability has at
11 all times since met the definition of disability in the PLAN.

12 7. On March 28, 2007, the PLAN, through the insurer, informed plaintiff that it would
13 deny plaintiff's application for disability benefits under the PLAN.

14 8. Plaintiff timely appealed the denial of his application for benefits. On January 10,
15 2008, the PLAN, through the insurer, informed plaintiff that his appeal was also denied.

16 9. Plaintiff has performed all acts necessary to maintain his status as a participant in the
17 PLAN. He timely filed all applications for benefits and appeals of denial of benefits. He
18 provided all the necessary information to the PLAN and its representatives. Plaintiff exhausted all
19 available administrative remedies under the PLAN.

20 **IV. CLAIM FOR RELIEF**

21 10. Plaintiff hereby realleges and incorporates by reference every allegation of paragraphs
22 1 through 9 above, inclusive.

23 11. ERISA Section 502(a)(1)(B), 29 USC 1132(a)(1)(B), provides a private right of action
24 for ERISA plan participants to recover benefits due and to clarify rights to future benefits under
25 the terms of the PLAN.

26 12. As a direct and proximate consequence of defendant's failure and refusal to pay
27

benefits under the PLAN, plaintiff has been deprived of amounts to be determined and interest thereon.

V. PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for:

1. A judgment and order that defendant pay the benefits due plaintiff now and in the future and interest thereon.

2. An order that defendant pay plaintiff his attorney fees and other costs.

3. Such order and further relief as the Court may deem just and proper.

Date: February 8, 2008.

Fricker & Mellen & Associates

By: _____
Timothy J. Fricker, Esq.

Attorneys for Plaintiff
MIKAEL TJUATJA